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Introduction: Political Opposition in a Multi-Level Context

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Special Issue Title:

Governments in Opposition? Intergovernmental Relations in the UK in a Context of
Party Political Incongruence.

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Abstract

This short introduction sets out the rationale for the special issue. It introduces the concepts of intergovernmental relations (IGR) and party political incongruence which are central to the analyses contained in the volume. It considers the nature and form of intergovernmental relations in the early years of devolution, under conditions of predominant party

congruence in the composition of the central and sub-state governments. It then develops the hypothesised relationship between party political incongruence and intergovernmental relations, focusing on the nature and structure of IGR. It introduces the key questions to be addressed in the volume and each of the subsequent contributions which explore this relationship in greater depth.

Introductory article includes one table.

Keywords: inter-governmental, UK, devolution, parties

Word count: 5417

One of the traditional hallmarks of British parliamentary democracy has been its adversarial character. Even within the context of today's multi-party politics, political debate is dominated by competition between government and opposition, with the principal opposition party assuming the role of a shadow government. The formation of a governing coalition between the Conservative Party and the Liberal Democrats has done little to alter this fundamental feature of British politics.

The adversarial character of British party politics is usually considered from a horizontal, mono-level perspective, when the government faces opposition from one or several parties in parliament. However, in multi-level systems, where power is divided between central and sub-state governments, opposition can also be played out vertically via intergovernmental relations (IGR), especially when governments at different levels are led by distinct political parties (party incongruence). The emergence of party political incongruence in the composition of central and devolved governments, especially after the devolved elections of 2007, provides an opportunity to examine whether the adversarial tradition of British politics has also been evident in the intergovernmental arena. Hence, the key purpose of this special issue is to examine the effect of party congruence and incongruence on the character and dynamics of intergovernmental relations in the context of UK devolution.

The term 'intergovernmental relations' (IGR) captures 'the working connections that tie central governments to those constituent units that enjoy measures of independent and inter-dependent political power, governmental control and decision-making' (Agranoff, 2004: 26).

Across multi-level states, IGR take place between governmental units of all types and levels, from the municipal to the supranational level (e.g. Anderson, 1960; Wright, 1982; Agranoff 2004; Bolleyer, 2009; Heinmiller 2002; Scharpf, 2001). Such interactions can be bilateral or multi-lateral, involving two or more institutional partners. They can be conducted vertically, between one level of government and another, or horizontally, between governing authorities from the same governmental tier. IGR involve not just the formal meetings between government ministers and senior officials, but also public officials of varying levels of seniority and importance in a complex web of day-to-day interactions and exchanges of views (Wright, 1982: 8-22).

IGR also have a very important interpersonal dimension, which Wright referred to as ‘the human element’, that is, the activities, attitudes and personalities of those individuals holding office, and their perceptions of other players’ motivations, actions and attitudes (*ibid.*). In addition, the character of IGR can vary between policy fields, with respect to the intensity of intergovernmental interaction and the degree of co-operation, conflict and compromise. For example, intergovernmental interaction may be more frequent in highly Europeanized policy fields, given the need for member states to speak with one voice in the European Council. The extent to which the respective players in an intergovernmental relationship can achieve outcomes which match their policy preferences can tell us much about the power dynamics underpinning IGR. However, outcomes may also be determined by the relative importance of particular policy issues to institutional and individual players. Naturally, a central government can make concessions with respect to a policy matter of little concern to its own agenda without necessarily ceding authority in the intergovernmental relationship.

This volume focuses on one particular set of actors in IGR – namely the central and devolved governments of the UK. Since devolution took place in 1999, IGR have developed in a largely piecemeal and pragmatic fashion. There were no constitutional blueprints or grand plans for governments to follow in conducting their intergovernmental exchanges. Instead, a series of informal intergovernmental agreements, or concordats, were endorsed by the devolved administrations and central government, and in the latter case, more often with individual departments of state (Poirier, 2001; Bogdanor, 2001). Path-dependency played a significant role in shaping the character of IGR; informal agreements or concordats to streamline the relationship between the UK and devolved governments after devolution were built upon the inter-departmental interactions underpinning pre-devolution relationships between the territorial departments of the UK government - the Scottish Office, the Welsh Office and, from 1972 with the imposition of direct rule, the Northern Ireland Office - and other Whitehall departments.

IGR, then, is our dependent variable. These relations are assessed empirically by analyzing two distinctive dimensions. The first concerns the nature of intergovernmental interactions which can include the intensity of meetings, as well as the competitive, conflictual or cooperative nature of intergovernmental exchanges. The second concerns the structures that channel intergovernmental interactions, for example, the machinery of intergovernmental relations, and the composition of intergovernmental institutions and the decision-making rules governing them. Both dimensions are often related; high institutionalization of structures tends to imply more intense and more cooperative exchanges (Bolleyer, 2009: 18-20). However, in the UK case, incongruity in the political composition of central and devolved governments has emerged in an institutional setting in which the level of

formalization and institutionalization of intergovernmental structures is low by comparative standards.

In the early years of devolution, the structures of IGR were largely bilateral, vertical and informal, with an emphasis upon interactions among middle-ranking officials. The machinery, or infrastructure, of intergovernmental relations was weakly developed, especially when contrasted with the formal machinery through which intergovernmental relations are often conducted in other multi-level states (Cameron and Simeon, 2002; Simeon, 2006; Watts 2007; Benz 2009). Relations were at the same time largely co-operative and trouble-free (The House of Lords Committee on the Constitution, 2002; Horgan, 2004; Trench, 2005; 2007a; Laffin, *et al.*, 2007). There were few evident intergovernmental tensions, and the formal dispute resolution mechanisms put in place through the Joint Ministerial Committee (a multilateral forum bringing together the UK Prime Minister and the devolved First Ministers) were never invoked.

What can account for the low degree of institutionalization of intergovernmental structures and the relatively harmonious nature of IGR in these early years? There are many potential drivers which shape the character of IGR in particular multi-level states. IGR may be shaped by the design of the constitution or the institutional framework for interaction, as well as by economic and political factors, including the territorial distribution of wealth, the electoral and parliamentary strength of governments at different levels and the personal qualities and popularity of governments and leaders (Bolleyer, 2009; Watts 1997, Wright 1992).

This special issue focuses on examining the importance of one possible driver – the party political composition of state and sub-state governments. Our working hypothesis is that the relatively harmonious and informal nature of IGR in the early years of devolution was at least in part a result of the prevalence of party congruence in the relationship between the UK and devolved governments. Except for Northern Ireland, the Labour party played the sole or lead role in the UK, Scottish and Welsh governments until May 2007. Consequently we might expect that the more widespread incongruence which emerged after the 2007 devolved elections in Scotland and Wales would have pushed IGR into a more contentious and more institutionalized direction.

The Role of Political Parties in IGR

The political developments within the UK since 2007 make it an ideal test-bed for assessing the relative importance of political party composition as an independent variable capable of explaining change in the nature and form of IGR in the UK. From 1999 until 2007, the political composition of government across ‘mainland Britain’ was broadly congruent. While Labour held UK government office with a healthy majority, the party was the senior partner in a stable coalition government with the Liberal Democrats in the first and second sessions of the Scottish parliament, and briefly shared power with the Liberal Democrats in Wales before and after governing alone as a minority government or with a slender majority. Meanwhile, Northern Ireland, which has a wholly distinctive party system, experienced a halting start to devolution and recurrent periods during which the Northern Ireland Assembly was suspended (see Table 1).

Table 1: *Government Formation since Devolution, 1999-2011*

| | Westminster | Scotland | Wales | Northern Ireland** |
|-----------|--|----------------------|---|--|
| 1999-2003 | Labour majority | Lab-Lib Dem Majority | Lab minority (- Oct. 2000) Lab-Lib Dem majority | Cross-party consociational govt, led by UUP & SDLP (-2002) |
| 2003-2007 | Labour majority | Lab-Lib Dem Majority | Lab 'majority' (-2005)*; Labour minority (2005-2007) | Suspension of devolution |
| 2007-2011 | Labour majority (-2010) Cons-Lib Dem majority | SNP minority | Lab-Plaid Cymru majority | Cross-party consociational govt, led by DUP & Sinn Fein |

* Labour won exactly half of the Assembly's 60 seats in 2003, but an opposition AM was elected to the position of Presiding Officer, thus giving them a nominal majority of 1. This ended when Peter Law, the AM for Blaenau Gwent, defected from Labour to become an Independent, in protest against the imposition of all-women shortlists for candidacies for the 2005 General Election

** The Northern Ireland Assembly was suspended between February and May 2000; 24-hour suspensions in August 2001 and September 2001; and from October 2002. A transitional assembly was set up in October 2006, paving the way for the restoration of devolution in 2007 (Northern Ireland Assembly, 2011 http://www.niassembly.gov.uk/io/summary/new_summary.htm#7)

The political landscape changed after 2007, with the arrival of an SNP minority government in Scotland and a Labour-Plaid Cymru coalition in Wales. Incongruence was reinforced by the restoration of the Northern Ireland Assembly, where the distinctive party system and consociational government produce permanent political incongruence vis-à-vis the rest of the UK. Party differences were further reinforced by the election of the UK Conservative-Liberal Democrat coalition government in 2010. It is therefore timely to assess whether the third session of devolved government – 2007-2011 – generated a new climate in IGR, transferring the adversarial party politics traditionally associated with Westminster parliamentary politics to the vertical axis of the multi-level arena.

Party political incongruence may be expected to affect IGR both in an organizational and in a programmatic sense. First, parties can provide important organizational linkages bridging jurisdictional divisions. When operating within different constituent governments and on different governmental levels, they fulfil an important integrative function and facilitate

policy coordination by providing channels for information exchange and conflict resolution. Conversely, the absence of such organizational linkages during periods of party incongruence can heighten conflict both horizontally and vertically (Lehmbruch, 1998). Second, party incongruence is likely to exacerbate the programmatic differences between tiers of government. This can complicate the intergovernmental coordination of legislative and policy outcomes necessitated by overlapping competencies and spill-over effects.

The extent to which IGR are shaped by party political congruence or incongruence may also depend on the degree of incongruence. Incongruence is *complete* if there is no overlap in the party political composition of governments, and governments at different levels are composed of distinctive parties (either in single party or coalition governments). If governments at different levels are only partially ruled by different parties, we may speak of *partial incongruence*. As Table 1 indicates, the intergovernmental arrangements in the UK have included varying degrees of incongruence, from coalition governments within the devolved administrations in which an opposing political party is the junior partner, to the total incongruence witnessed after the 2010 UK general election. Whatever the effect of incongruence on IGR, we might expect it to be more pronounced under conditions of complete incongruence, as has been the case across the UK since 2010.

In addition, there are other intermediary variables which may exacerbate or moderate the effect of party congruence or incongruence in any multi-level system. First, we must consider the nature of the party system, and the extent to which it varies across institutional tiers and territorial communities. For example, where the party system associated with sub-state elections is highly distinctive from the system of party competition in state-wide elections, we might expect that the effects of party incongruence on IGR would be less

apparent. In general, low levels of territorial integration are usually associated with more conflictual IGR, given that the political and electoral stakes of intergovernmental competition are reduced for each governmental actor (Chandler and Chandler, 1987; Lehmbruch, 1998; Swenden and Maddens, 2009). But, in highly decentralised party systems, we would expect this to be the case *regardless* of the party in power, thus diminishing the extent to which party congruence and incongruence can explain variation in intergovernmental dynamics. Parties within more integrated party systems, on the other hand, may use the opportunities afforded by intergovernmental relations under conditions of party incongruence to conduct their electoral battles within the intergovernmental arena.

Alongside the territorial integration of party *systems*, we must also consider the territorial organisation and cohesion within political *parties*. There are wide variations within and across multi-level states with respect to the degree of vertical integration - the organisational linkages, interdependence and co-operation - between the central and regional branches of state-wide political parties (Thorlakson, 2009: 160-2). In Canada, political parties are weakly integrated across territorial communities, while in the United States, levels of vertical integration are high. State-wide parties in most European multi-level states maintain high levels of vertical integration, albeit with varying opportunities to exercise autonomy within their region or to influence the decisions of the central party (Dyck, 1991; Hopkin, 2003; Thorlakson, 2009).

The degree of vertical integration within the three 'state-wide' parties remains high, especially in relation to Westminster elections, with relatively little change in the opportunities for regional branches to influence national policy. Regional branches enjoy more autonomy over devolved elections and devolved policies, but the parties' ethos and

identity remains strong across these institutional boundaries. This shared identity is evident even within the federally-structured Liberal Democrats, but has been most apparent in the Labour Party (Hopkin and Bradbury, 2006; Laffin, *et al.*, 2007). Northern Ireland is, of course, the exception, with its unique party system which pre-dates the re-establishment of devolution here. Although Sinn Fein competes in the Irish Republic, with respect to the UK state, all Northern Irish parties are non-state-wide parties; the UK's state-wide parties have no presence in either Westminster or Assembly elections in Northern Ireland.

With regard to the party system in which these parties compete, there is considerable variation. Most notably, the presence of powerful nationalist parties in Scotland and Wales alters the nature of party competition here. These party systems long pre-date devolution, and indeed helped to engender constitutional change, but the creation of multi-level government reinforces party system differences and has the potential to bring them into the intergovernmental arena. The effect of party incongruence on IGR may thus depend on which particular parties make up the incongruent relationship, and the nature of party competition between them.

The relative strength and incumbency of parties can also shape how IGR unfold. Bolleyer found that in parliamentary systems, sub-state governments that usually take the form of one party cabinets are less inclined to engage in binding, highly institutionalised and multi-lateral intergovernmental relationships than governments that feature (non-compulsory) power-sharing or coalition arrangements (Bolleyer, 2009: 204-5). Majority governments may also be in a stronger position to set the agenda, both within their own legislative arena and in the arena of IGR.

Key Questions and Structure of the Issue

This volume focuses on the development of IGR during the first three terms of devolution, from 1999-2011. Its overall aim is to assess the impact of party congruence and incongruence on the character and dynamics of IGR in the UK. In so doing, we collectively explore two sets of questions. First, has party political incongruence affected *intergovernmental structures*, that is, the level of institutionalization of the intergovernmental bodies and fora in which governments interact? Has it led to a reform of the machinery of IGR? Has the informal, day-to-day, intra-party and inter-departmental interaction characteristic of the period of party congruence given way to a more formal or institutionalized intergovernmental relationship? Second, has party political incongruence affected the *nature of intergovernmental interaction*? Have interaction patterns become more antagonistic? Has incongruence led to stalemate in areas that require intergovernmental coordination, or generated outcomes that are more favourable (through hierarchy, or persuasion) to one party in the relationship?

We recognise that additional features may interact with party political incongruence to moderate or exacerbate its effect, and some of these are specific to the UK context. As a ‘regionally devolved union’ (Watts, 1999), the constituent units of the UK lack the constitutionally entrenched autonomy enjoyed by sub-state governments in classic federal states, and they remain highly dependent on central government for financial and other resources (Elazar, 1987; Watts, 1999; Swenden, 2006; Trench, 2007b; Bell and Christie, 2007). Constitutional and fiscal resources remain concentrated in the hands of the UK government, while the latter also enjoys the lion’s share of those less tangible resources related to the access to information, organisational support and policy expertise. In his

analysis of central-local IGR, Rhodes argued that the relative power of central and local government and the interactions and interdependence between them is determined by the availability, distribution and substitutability of resources. A local authority – or in our case, a devolved government – would be dependent upon a central government department to the extent that it needs resources controlled by that department and can't get them elsewhere (1999: 78-9). The devolved institutions are better resourced than local governments, but their continued dependence on central government – constitutionally, financially and with respect to informational resources - may constrain their autonomy and limit their capacity to become powerful intergovernmental players (Swenden and McEwen, 2008). These additional features – or intervening variables – are considered in each of the contributions to this volume.

IGR in most countries is difficult to penetrate for social scientists, given that so much of it takes place in private meetings behind close doors, away from the gaze of the media. This is especially the case in the UK given the prevalence and preference for informal interaction over more formal intergovernmental summitry. The volume thus begins with a commentary by one of the most influential players in UK intergovernmental relations in recent years. As Director-General for Devolution, Jim Gallagher had a central role in coordinating relations between the UK government and the devolved administrations especially after party political incongruence was enhanced in 2007. His analysis provides us with a valuable insight into the evolution of IGR, the manner in which intergovernmental interaction has been conducted, and the cause and content of intergovernmental disputes. Gallagher offers some explanations for why the intergovernmental relationship in the period between 2007 and 2011 was marked more by continuity than change.

The next contribution by Michael Keating considers the purpose of IGR in a broad comparative sense, before examining their evolution in the UK. In so doing, he considers IGR in the UK in light of the nature and evolution of the state itself. The UK is not a federal state but an asymmetrical union in which the government of the whole state is also the government of its largest constituent part. There is no 'central level' distinct from England, and the understanding of what the state, or the 'union', means varies within and across the territories constituting the UK. This can act as a significant barrier to the development of a comprehensive system of IGR, whether its purpose is to support policy harmonization or to manage externalities or policy 'overspills'. Indeed, Keating argues that an elaborate system of IGR in the UK would be both difficult to achieve and unnecessary, suggesting instead that in the UK as elsewhere, competitive federalism and regionalism are on the rise.

The next three contributions examine IGR from the perspective of each of the devolved territories. In the first of the case study contributions, Paul Cairney examines IGR between the Scottish government and the UK government. Arguably, the largest political shift since devolution occurred in Scotland where in 2007, an SNP government replaced the Labour-Liberal Democrat coalition which had been in power since 1999. Although as a coalition government, the latter involved partial incongruence, the Labour Party was clearly the dominant partner and so the intergovernmental relationship was marked more by congruence than incongruence. In his article, Cairney assesses to what extent the election of the SNP government in 2007 reshaped Scotland's intergovernmental relationship with Whitehall. He argues that changes continued to be incremental rather than seismic, in part because of the constitutional balance of power between the UK and Scottish governments.

Furthermore, the SNP government's minority status in 2007-2011 made it dependent on cross-party support within the Scottish Parliament to push through its most radical programmatic points. Its occasional failure to achieve such support meant that some politically contentious issues failed to reach the intergovernmental arena. Finally, in its efforts to prove that it could deliver good government and good policy for Scotland, the SNP proved willing to engage with the UK government and even tap from its comparative resource strengths, especially when the UK government was engaged in international and EU affairs.

This international dimension is explored further in the contribution by Richard Wyn Jones and Elin Royles, who examine Welsh-UK intergovernmental dynamics through a case study of Welsh paradiplomacy. Paradiplomacy, or the international activities of sub-state governments, may seem an unlikely choice of study since in the UK international affairs are reserved to the UK government. Yet, where the UK operates internationally in policies that are devolved domestically, the autonomy of the devolved territories in their fields of jurisdiction can be curtailed. It is thus commonplace for sub-state governments to engage in external relations, but this inevitably involves activity which is at the interface of devolved and reserved competences, creating the potential for intergovernmental tension. Examining the intergovernmental dynamics generated by the Welsh Assembly government's external relations is also an interesting case for considering the effects of party competition in a context of (until 2010) partial incongruence. Following the establishment of the Labour-Plaid Cymru coalition in 2007, the Welsh Assembly minister in charge of regional economic development was the leader of Plaid Cymru, the Welsh Nationalist party, whereas the Labour Party leader and First Minister of Wales, controlled international development as part of a broader international relations portfolio. Comparing the

international engagement of Wales' regional economic development with international development could then potentially demonstrate how paradiplomacy is used differently, for instance as part of a wider nation and state-building project by the Plaid Cymru minister, or as part of a joined-up approach with the UK government to international development by the Welsh First Minister. However, the authors argue that given Wales' limited political autonomy, partial incongruence made little difference either to the nature of Welsh paradiplomacy or to the pattern of intergovernmental dynamics between Wales and London. By contrast, the period of full party political incongruence following the change of UK government in 2010 signalled greater tension in Welsh-UK IGR, especially in issues of finance.

The final case study contribution by Derek Birrell explores IGR from a Northern Irish perspective. Northern Ireland stands out among our case studies because of the permanent incongruence between the parties in power in the NI Assembly and the party of UK government. IGR with the centre also acquire specific features due to the power-sharing nature of the Northern Ireland executive. As such, Northern Ireland is a good example for demonstrating how 'intra-governmental' relations within Northern Ireland can affect the intergovernmental relationship with the UK government. Reflecting its 'bi-national' nature, IGR not only take place in a UK context, but also engage the Irish Republic in the process. Birrell first considers how the internal ideological cleavage between nationalists and unionists has affected the nature of the intergovernmental relationship with the UK government, especially with the Northern Ireland Office, which remains a politically significant player. He then argues that forums such as the Council of the Isles and the British-Irish Council have played an unexpectedly strong role in keeping the prospect of devolution open when it was temporarily suspended. As such, the British-Irish Council has

developed into an intergovernmental body in which Northern Irish political actors from both sides of the nationalist/unionist divide continue to engage. The joint involvement of the UK and Irish governments has given the BIC a more 'neutral' character than a domestic Joint Ministerial Committee, which Irish nationalists perceive as institutionally British.

The next two articles in the volume conduct focused analyses of two of the institutional features peculiar to the UK which may moderate the effects of party incongruence on IGR: the civil service and the courts. The structure and operation of these institutions and their largely apolitical character can support intergovernmental co-operation and co-ordination even under conditions of party competition. The Home Civil Service, examined in the contribution by Richard Parry, has remained largely depoliticised since devolution, and continues to share an identity as a unified organisation. Senior civil servants are socialized within the same institutional environment and respect similar operating procedures. Even the Northern Ireland civil service maintains close ties to the Home Civil Service despite the independence it has upheld for many decades. In addition, the civil service remains apolitical across the UK; senior civil servants are not politically appointed and remain in office when their political masters change party colours. Parry considers how both of these factors have helped to oil (lubricate) and glue (hold together) IGR even in the context of party political incongruence. While recognizing the important contribution of the civil service in both regards, he questions its ability to perform this function in the long term, even if party congruence were to be restored. The 'interdepartmental' mode of working does not suit a devolved setting in which civil servants are accountable to different governments. Furthermore, path-dependent operating procedures lose significance as more civil servants are externally recruited and access to key Whitehall departments is gradually reduced. Parry argues that the biggest difficulty would arise if Whitehall no longer

interpreted the devolved administrations as tolerable small-scale exceptions whose wishes could be accommodated. In a context of growing policy divergence and a scarcity of public resources, this could well turn out to be the case.

Much like the civil service, the courts in the UK may be perceived as ‘apolitical’ actors with the potential to shape intergovernmental interactions and outcomes. In some multi-level states, the courts emerge as powerful players in the intergovernmental arena, often playing a major role in intergovernmental dispute resolution. However, since devolution in 1999, the courts in the United Kingdom have been engaged in devolution matters to only a very limited extent (contrary to at least some pre-devolution expectations). In his contribution, Alan Trench explores why this is the case. Although he suggests that party congruence in the early years supported the development of informal and cordial relations between the governments of the UK, he stresses that the continuation of a minimal role for the courts in mediating IGR can also be found in the political nature of the UK’s unwritten constitution, and the constrained role usually played by lawyers and legal considerations in the practice of government in the UK. The UK’s constitutional arrangements have an in-built flexibility, as well as an in-built hierarchy which reinforces the superiority of the UK government, making it less likely that constitutional disputes will end up in the courts.

In the final contribution, we return to the key questions posed at the outset to examine whether and to what extent party political congruence and incongruence has shaped the dynamics and process of intergovernmental interaction in the UK, in light of the evidence presented in each of the contributions. We will also situate the findings in a comparative context. We argue that IGR in the UK are less adversarial than IGR in comparable multi-level states, such as Spain or Canada, even in periods of party political incongruence. This

is despite the UK's political culture remaining arguably more adversarial than these other multi-level states (even within the devolved institutions elected by proportional representation). Our contribution explores both the institutional features of the UK state which distinguish it from other multi-level states, alongside the other mediating factors relating to party systems and party strength, to explain why party political incongruence has thus far had an only limited impact on intergovernmental relations in the UK.

Each of the contributions in this volume emerged from presentations delivered as part of our ESRC Seminar Series, *Reforming Intergovernmental Relations in a Context of Party Political Incongruence?* (RES-451-26-0535). This series of five seminars, held between 2008 and 2010, brought together UK and international scholars of multi-level government alongside practitioners working within the UK government and each of the devolved administrations. We generously acknowledge and thank the ESRC for their support.

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